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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---|------------------------------------|
| 10/505,209 | 08/20/2004 | Yoshinobu Izawa | MAR 74 005 | 3694 |
| <div>7590 Patrick D McPherson Duane Morris Suite 700 1667 K Street NW Washington, DC 20006</div> | | | <div>EXAMINER LAUX, JESSICA L</div> | |
| | | | <div>ART UNIT 3635</div> | <div>PAPER NUMBER</div> |
| | | | <div>MAIL DATE 07/12/2007</div> | <div>DELIVERY MODE PAPER</div> |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|--|--------------------------------------|---|--|
| <p align="center">Office Action Summary</p> | Application No. 10/505,209 | Applicant(s) IZAWA, YOSHINOBU | |
| | Examiner Jessica Laux | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1/19/05</u> | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application 6) <input type="checkbox"/> Other: _____ |
|---|--|

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 – It is unclear how the tank is divided in two chambers with a separating wall that is movable up and down as in claim 1 and then is divided into two chamber that move side to side as in claim 3. This is not described in the specification and drawings in such a way as to enable one skilled in the art to make and or use the invention. Rather it appears from the specification and drawings that there are several embodiments with one embodiment having the wall mover up and down, and one embodiment having the wall move side to side, but not both.

Claim 5 – It is unclear how the tank is divided in two chambers with a separating wall that is movable up and down as in claim 1 and then is divided into an inner chamber and an outer chamber around pillars where the separating wall is located in the spans of the pillars (is it still movable up and down?) as in claim 5. This is not described in the specification and drawings in such a way as to enable one skilled in the art to make and or use the invention. Rather it appears from the specification and drawings that there are several embodiments with one embodiment having the wall

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mover up and down, and one embodiment the wall defined by pillars creating an inner and outer chamber, but not both.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Usher (1367900).

Regarding claim 1: Usher discloses a fluid, powder or grain feed tank, wherein the service tank is provided with a tank body to be filled with fluid, powder, or grain, the inside of the said tank body being divided into two chambers (upper and lower) with a separating wall (D), the said separating wall being movable upward and downward to relatively increase and/or decrease the volumes of the two chambers, and each chamber being filled with the said fluid, powder, or grain (where Usher discloses the tank being filled).

Regarding claim 2: The fluid, powder or grain feed tank of claim 1, wherein the inside of the said tank body is divided horizontally into an upper part and a lower part to form an upper chamber and a lower chamber with a separating wall that is movable upward and downward (figure 1).

Regarding claim 4: The fluid, powder or grain feed tank of claim 1, wherein the separating wall is made of a multi-angular or round base plate (d) and a slidable sheet (D, where D slides up and down the cable), the said slidable sheet being fixed at one end on the periphery of the said base plate (where it is fixed via element e), and being fixed at the other end on the inside walls of the tank body (figure 1).

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Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Erickson (493355).

Regarding claims 1 and 3 (as best understood): Erickson discloses tank, provided with a tank body, the inside of the said tank body being divided into two chambers (a left and right) with a separating wall (E), the said separating wall being movable from side to side to relatively increase and/or decrease the volumes of the two chambers, (where each chamber is inherently capable of being filled with fluid, powder, or grain.

Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Krauss (4606158).

Regarding claims 1 and 5 (as best understood): Krauss discloses a tank, wherein the service tank is provided with a tank body that is inherently capable of being filled with fluid, powder, or grain, the inside of the said tank body being divided into two chambers (an inner and outer) with a separating wall (3, 4 which forms an inner pillar).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Usher (1367900).

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Regarding claim 6: Usher discloses the fluid, powder or grain feed tank of any of claims 1, but does not disclose that the above two chambers are filled with the same kind of fluid, powder, or grain. However applicant states in the specification that the two chambers may be filled with the same or different materials. Therefore it appears to be a mere matter of design choice that would have been obvious to one of ordinary skill in the art to have the chambers filled with the same or different materials, as the bin tank and movable wall will perform the same function of storage with either the same or different materials.

Further, the limitations of claim 6 amount to an intended use of the product as claimed and therefore are not given patentable consideration.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 6:30am to 2:30pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/JEANETTE CHAPMAN/
PRIMARY EXAMINER
ART UNIT 3635

JL
7/8/2007